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NEW JERSEY BOARD OF PUBLIC UTILITIES

RENEWABLE ENERGY PORTFOLIO STANDARDS

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BOARD OF PUBLIC UTILITIES

Adopted Amendments: N.J.A.C. 14:4-8 (Renewable Energy Portfolio Standards)

Proposed: April 19, 2004 at 36 N.J.R. 1892(a)

Adopted: 2005, by the New Jersey Board of Public Utilities, Jeanne M. Fox, President, and Frederick F. Butler, Connie O. Hughes, and Jack Alter, Commissioners.

Filed: February 2, 2005 with clarifying changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3)

Authority: N.J.S.A. 48:2-13 and 48:3-49 et seq., in particular 48:3-51 and 48:3-87

BPU Docket Number: EX 04020093 (companion to BPU docket number EX 03080616)

Effective Date: March 7, 2005

Expiration Date: January 9, 2006

The New Jersey Board of Public Utilities (Board or BPU) is herein adopting amendments to its renewable portfolio standards (RPS) rules at N.J.A.C. 14:4-8. The RPS rules implement provisions of the New Jersey Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (EDECA). Significant amendments to the RPS rules were adopted on April 19, 2004. A notice of correction to that adoption, regarding N.J.A.C. 14:4-8.3(h), was published in the New Jersey Register on September 7, 2004. That correction is not directly involved with the amendments adopted herein, and is only noted for information purposes.

The amendments adopted herein make the following changes to the rules adopted on April 19, 2004:

- Provide a limited waiver for holders of 34-month supply obligations, committed to through the 2003 basic generation service (BGS) auction, applying the RPS requirements in effect at the time of the 2003 auction to those supply obligations;
- Adjust the RPS percentage requirements for the years following the expiration of the 34-month supply obligations, to compensate for the renewable energy that would have been supplied absent the limited waiver;
- Restrict issuance of solar RECs to energy generated at a facility directly connected to a distribution system supplying New Jersey; and
- Authorize the Board to adopt a different tracking system than the PJM Generation Attribute Tracking System (GATS) if necessary.

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The proposed amendments were published in the New Jersey Register on April 19, 2004 and comments were accepted through June 18, 2004. One person submitted comments, which are summarized below, with the Board's responses.

Summary of Public Comments and Agency Responses:

Julie L. Friedberg, Thelen Reid & Priest LLP, on behalf of Jersey Central Power & Light (JCP&L)

- 1. COMMENT:** Limiting the location of solar generation qualifying for Solar RECs may not achieve the ultimate benefit of lowering energy rates and, in fact, may require consumers to pay higher energy rates. We have inferred from the Board's statements that it has, in part, limited the issuance of Solar RECs solely to projects interconnected to electric distributions systems that supply New Jersey based on the assumption that energy generated by more distant solar project's costs could dwarf any incremental costs associated with transporting solar energy from a more distant solar project. Restricting the potential supply of Solar RECs by artificially limiting the size of the market will distort the supply/demand balance thereby raising the price of Solar RECs. The most advantageous approach for consumers would be to permit the market to determine the lowest cost solar projects, rather than administratively predetermining the scope of the market based on an assumption. For these reasons, we urge the Board to withdraw the proposed supplemental amendment to N.J.A.C. 14:4-8.9(e), and, instead, permit solar electric generation produced by any qualifying generating facility to qualify for issuance of a Solar REC.

RESPONSE: The Board's goal with respect to the solar requirement in the renewable portfolio standard is strong participation from diverse audiences in a statewide renewable energy market. The Board believes that the correlation between the high peak-demand periods and most efficient solar generation periods offsets the supply/demand concern of the commenter. Peak-demand for electricity occurs during the long and hot summer days when the potential for solar energy generation is plentiful. Limiting the location of the Solar RECs to systems interconnected with an electric distribution that supplies New Jersey will lower the peak-demand for electricity and mitigate electric transmission congestion. Minimizing transmission congestion provides many advantages which in turn work together to reduce the cost of electricity. Alleviating transmission congestion will reduce the need for transmission upgrades, provide greater reliability during peak periods, and reduce the need for increased traditional electric generation. The capital needed to upgrade transmission lines, provide greater reliability, and increase generation will be minimized. This reduced need for capital will offset the supply/demand concerns of the commenter. Additionally, local solar generation enhances the local distribution system by reducing both maintenance costs and upgrade costs and by reducing demand. Because the most efficient solar generation coincides with the peak-demand, local solar generation works to lower the supply needed during peak periods. The reduced peak period demand and the

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reduced need for capital to maintain and upgrade the distribution system offset the supply/demand concerns of the commenter. In addition to the cost related benefits, local solar generation offers additional benefits which form the rationale for New Jersey's Clean Energy Program. These benefits include conserving natural resources, improving overall system reliability, and improving local air quality which in turn provides environmental and local health benefits to all New Jersey residents. The environmental and health advantages combined with the associated cost savings of local solar generation support the proposed amendment.

2. COMMENT: We question why a location restriction is adopted solely for Solar REC's and not for non-solar Class I and Class II REC's.

RESPONSE: The other forms of renewable generation associated with non-solar Class I and Class II REC's do not provide the same correlation between generation efficiency and high peak-demand periods. See response to comment 1 above.

Summary of agency-initiated changes:

The title of Table A in N.J.A.C. 14:4-8.3 has been modified upon adoption to delete from the title phrase "2004 through 2008". The "reporting year" column of the table accurately describes the correct reporting year. The years provided in the title of Table A are thus redundant and could cause confusion, and are therefore deleted upon adoption. This change has no substantive affect on the adopted rules.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. N.J.A.C. 14:4-8 is not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis for the adoption of these amendments.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 8. RENEWABLE ENERGY PORTFOLIO STANDARDS

14:4-8.3 Minimum percentage of renewable energy required

(a) Each supplier/provider, as defined at N.J.A.C. 14:4-8.2, that sells electricity to retail customers in New Jersey, shall ensure that the electricity it sells each reporting year in

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New Jersey includes at least the minimum percentage of qualified renewable energy, as defined at N.J.A.C. 14:4-8.2, required for that reporting year from each category specified in Table A below , except as provided at (j) below:

Table A
What Percentage Of Energy Supplied Must Be Renewable Energy?
[2004 through 2008]

Reporting Year	Solar Electric Generation (solar RECs)	Class I Renewable Energy	Class II Renewable Energy	Total Renewable Energy
June 1, 2004 – May 31, 2005	0.01%	.74%	2.5%	3.25%
June 1, 2005 – May 31, 2006	0.017%	0.983%	2.5%	3.5%
June 1, 2006 – May 31, 2007	0.0393%	2.037%	2.5%	4.5763%
June 1, 2007 – May 31, 2008	0.0817%	2.924%	2.5%	5.5057%
June 1, 2008 – May 31, 2009	0.16%	3.84%	2.5%	6.5%

(b) - (j) (No change.)